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9 UNITED STATES DISTRICT COURT
10 EASTERN DISTRICT OF CALIFORNIA

11 MAGDY ZAKHARY,

12 Plaintiff,

13 v.

14 UNITED STATES OF AMERICA and
15 DOES 1 through 30, inclusive,

16 Defendants.

Case No.

COMPLAINT FOR DAMAGES
(Personal Injury - Medical Malpractice)

JURY TRIAL DEMANDED

17
18 **I. JURISDICTION**

19 1. Plaintiff is a citizen of the State of California. Plaintiff is informed and believes, and
20 thereon alleges that each Defendant is a governmental entity, corporation incorporated under the
21 laws of the State of California, with a principal place of business in the State of California, and/or
22 a physician and/or health care provider licensed to practice medicine with the State of California.
23 The matter in controversy, exclusive of interest and costs, exceeds the sum of \$75,000.00.

24 **II. GENERAL ALLEGATIONS**

25 2. This action is brought by Plaintiff, MAGDY ZAKHARY. This case arises out of
26 the conduct of Defendants, UNITED STATES OF AMERICA and DOES 1 through 30, inclusive,
27 regarding Defendants' negligent medical care administered to Plaintiff MAGDY ZAKHARY,
28 which caused serious injuries to him.

1 3. This Complaint specifically asserts causes of action for Medical Malpractice on
2 behalf of MAGDY ZAKHARY.

3 4. Plaintiff was a resident of and suffered injury in the State of California. The amount
4 in controversy exceeds the minimum jurisdictional limits of the Court.

5 5. Defendants, UNITED STATES OF AMERICA and DOES 1 through 30, are
6 individuals, corporations and/or governmental entities, doing business in the State of California.

7 6. Plaintiff is informed and believes, and thereon alleges that at all relevant times
8 herein, all Defendants were the agents, employees, and/or servants, masters or employers of the
9 remaining Defendants, and in doing the things alleged in this Complaint, were acting in the course
10 and scope of such agency or employment, and with the approval or ratification of each of the other
11 Defendants.

12 7. The true names and capacities, whether individual, corporate, associate, or
13 otherwise of DOE 1 through 30, inclusive, are unknown to Plaintiff, who therefore sues such
14 Defendants by fictitious names. Plaintiff will amend this Complaint to show the Defendants' true
15 names and capacities when the same have been ascertained. Plaintiff alleges, upon information and
16 belief, that each of the Defendants, and DOES 1 through 30, are legally responsible in some manner
17 negligently, in warranty, strictly, intentionally, or otherwise, for the events and happenings herein
18 referred to, and each of the Defendants proximately caused injuries and damage to Plaintiff as
19 herein alleged.

20 8. Plaintiff is, and at all times mentioned herein, was a resident of, and sustained
21 injuries caused by the Defendants, in the State of California.

22 9. Defendants, UNITED STATES OF AMERICA and DOES 1 through 10, inclusive,
23 and each of them, are physicians and surgeons licensed to practice and practicing medicine in the
24 State of California.

25 10. Defendants, UNITED STATES OF AMERICA and DOES 11 through 21, inclusive,
26 and each of them, are now, and at all times herein mentioned were, California business entities, as
27 a corporation, association, partnership or other type of business entity, doing business as a hospitals
28 and clinics, and Plaintiff will ask leave to insert the correct designation when the same has been

1 ascertained.

2 11. Defendant UNITED STATES OF AMERICA is a governmental entity which owns,
3 controls, supervises and/or dictates the actions and policies of the remaining Defendants.

4 12. On or about January 2, 2019, Plaintiff filed a Claim for Damage, Injury, or Death
5 form (Standard Form 95), with the U.S. Department of Veterans Affairs, pursuant to the Federal
6 Tort Claims Act, 28 U.S.C. § 1346(b), 2401(b), 2671-2680.

7
8 **FIRST CAUSE OF ACTION**
(Medical Malpractice)

9 13. Plaintiff incorporates by reference paragraphs 1 through 12 as it fully set forth
10 herein.

11 14. On or about January 4, 2018, Plaintiff MAGDY ZAKHARY was instructed to stop
12 taking his medication by his treating physician. This led to dizziness, fatigue, shortness of breath
13 and congestive heart failure. During the times mentioned, the Defendants, and each of them,
14 negligently cared for, diagnosed, and treated Plaintiff MAGDY ZAKHARY and failed to exercise
15 the standard of care and skill ordinarily and reasonably required of physicians, surgeons, hospitals,
16 nurses, etc., which proximately caused the hereinafter described injuries and damages to plaintiff.

17 15. During the times mentioned, the Defendants, and each of them, impermissibly
18 delayed, failed or were negligent in providing proper care resulting in severe injury to Plaintiff's
19 body.

20 16. As a proximate result of the said negligence and carelessness of the Defendants, and
21 each of them, Plaintiff was hurt and injured in his health, strength and activity, sustaining injury to
22 his body and shock and injury to his nervous system and person, all of which said injuries have
23 caused and continue to cause Plaintiff great mental, physical and nervous pain and suffering.
24 Plaintiff is informed and believes and therefore alleges that said injuries will result in some
25 permanent disability to Plaintiff, all to his general damage in the amount in excess of the minimum
26 jurisdictional limits of this Court.

27 17. As a further proximate result of the negligence of Defendants, and each of them,
28 Plaintiff was required to and did employ physicians and surgeons to examine, treat and care for him

1 and did incur and will in the future incur medical and incidental expenses. The exact amount of
2 such expense is unknown to Plaintiff at this time, and Plaintiff shall seek leave to amend this
3 pleading when the same has been ascertained.

4 18. As a further proximate result of the said negligence of the Defendants, and each of
5 them, Plaintiff was prevented from attending to his usual occupation, employment, opportunities,
6 benefits and advantages, and Plaintiff is informed and believes and thereon alleges that he will
7 thereby be unable to attend to his usual occupation, employment opportunities, benefits and
8 advantages at times in the future, and as a proximate result thereof, will sustain a loss with regard
9 to his past and future wages and benefits, as well as his earning capacity.

10 WHEREFORE, Plaintiff prays for judgment against the Defendants, and each of them, as
11 follows:

- 12 1. For general damages in a sum in excess of the minimum jurisdictional
13 limits of this Court;
- 14 2. For medical and incidental expenses according to proof;
- 15 3. For all costs of suit incurred herein;
- 16 4. For loss of earnings according to proof;
- 17 5. For all prejudgment interest on general and special damages from the
18 date of the incident of the present complaint; and
- 19 6. For such other and further relief as this Court may deem just proper.

20
21 Date: January 31, 2020

Respectfully submitted,

BRELSFORD ANDROVICH & WHITE

23
24 R. Parker White
R. PARKER WHITE